

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN JOSEPH VOLZ	:	CIVIL ACTION
Petitioner,	:	
	:	
v.	:	NO. 09-0885
	:	
GERALD L. ROZUM, THE DISTRICT	:	
ATTORNEY OF THE COUNTY OF	:	
PHILADELPHIA, and THE ATTORNEY	:	
GENERAL OF THE STATE OF	:	
PENNSYLVANIA,	:	
Respondents.	:	

ORDER

AND NOW, this 5th day of August, 2010, upon consideration of the Petition for Writ of Habeas Corpus by a Person in State Custody (Document No. 1, filed February 27, 2009); Petitioner's Motion to Proceed Nunc Pro Tunc (filed February 27, 2009);¹ Petitioner's Memorandum of Law In Support of His Petition for Writ of Habeas Corpus (Document No. 6, filed June 4, 2009); Response to Petition for Writ of Habeas Corpus (Document No. 12, filed July 28, 2009); and Petitioner's Response and Reply Brief (Document No. 15, filed September 14, 2009), and after review of the Report and Recommendation of United States Magistrate Judge David R. Strawbridge dated January 29, 2010 (Document No. 19), Petitioner's Objections to Magistrate's Report and Recommendation (Document No. 26, filed March 19, 2010), and the record in this case, for the reasons set forth in the Memorandum dated August 5, 2010, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge David R.

¹ A copy of petitioner's Motion to Proceed Nunc Pro Tunc shall be docketed by the Deputy Clerk.

Strawbridge dated January 29, 2010, is **APPROVED** and **ADOPTED**, as follows:

a. Those parts of the Report and Recommendation of United States Magistrate Judge David R. Strawbridge dated January 29, 2010, relating to Claims One through Five of the Petition for Writ of Habeas Corpus by a Person in State Custody are **APPROVED AND ADOPTED**; Claims One through Five are **DISMISSED AND DENIED**; and,

b. That part of the Report and Recommendation dated January 29, 2010, relating to Claim Six, as supplemented in the attached Memorandum, is **APPROVED AND ADOPTED**; Claim Six is **DISMISSED**.

2. Petitioner's Objections to the Report and Recommendation of United States Magistrate David R. Strawbridge dated January 29, 2010, relating to Claims One through Six of the Petition for Writ of Habeas Corpus by a Person in State Custody are **OVERRULED**.

3. Petitioner's Motion to Proceed Nunc Pro Tunc is **DENIED**.

4. A certificate of appealability will not issue for the grounds on which the Court denies relief because reasonable jurists would not debate this Court's procedural rulings and because petitioner has not made a substantial showing of a denial of a constitutional right as required under 28 U.S.C. § 2253(c)(2). See Slack v. McDaniel, 529 U.S. 473, 484 (2000).

BY THE COURT:

/s/ Hon. Jan E. DuBois

JAN E. DUBOIS, J.